

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TNT USA, INC.,

Plaintiff,

**ORDER**  
CV 09-481 (JS)(ARL)

-against-

DHL EXPRESS (USA), INC.,

Defendant.

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**LINDSAY, Magistrate Judge:**

Before the court is plaintiff's letter application dated December 20, 2010 informing the court that it is re-filing its letter motion dated December 10, 2010 with certain redactions, including the removal of the names of DHL's current or former customers from the document that DHL designated "Attorney's Eyes Only." The court deems plaintiff's December 10<sup>th</sup> letter motion withdrawn.

Also before the court is plaintiff's re-filed letter application dated December 20, 2010 seeking to (i) compel the deposition testimony of three DHL witnesses; and (ii) compel DHL to remove the designation "attorney's eyes only" from a spreadsheet of DHL's "whisper call" communications in the Fall of 2008 inasmuch as no such designation exists under the confidentiality order in this case. Defendant opposes the motion, in part.

Inasmuch as DHL has agreed to schedule the depositions of the three DHL witnesses, that portion of plaintiff's motion is moot. With respect to the whisper call spreadsheet, plaintiff's motion is denied at this time. DHL is directed to meet and confer with TNT to discuss the "attorney's eyes only" designation in a good faith effort to resolve this issue prior to seeking judicial intervention.

Dated: Central Islip, New York  
December 22, 2010

**SO ORDERED:**

\_\_\_\_\_/s\_\_\_\_\_  
ARLENE ROSARIO LINDSAY  
United States Magistrate Judge